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09/823,190	03/29/2001	Joseph F. Cihula	42390.P9699	1221

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EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/823,190	CIHULA, JOSEPH F.
	Examiner	Art Unit	
	El Hadji M Sall	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>29 March 2001</u>.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-30</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-30</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

1.   **DETAILED ACTION**

This action is responsive to the correspondence filed on March 29, 2001. Claims
1-30 are pending. Claims 1-30 represent network-aware policy deployment.

2.   *Claim Rejections - 35 USC § 112*

Claims 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being
indefinite for failing to particularly point out and distinctly claim the subject matter which
applicant regards as the invention.

Claims 26-30 recite the limitation "the apparatus" in line 1. There is insufficient
antecedent basis for this limitation in the claim. Claim 25, which claims 26-30 depend
on, is an article of manufacture not an apparatus.

3.   *Claim Rejections - 35 USC § 102*

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent
by another filed in the United States before the invention thereof by the applicant
for patent, or on an international application by another who has fulfilled the
requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before
the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act
of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   Claims 1-4, 8, 9, 11, 13-17, 20, 21, 23 and 25-28 are rejected under 35 U.S.C. 102(e) as being unpatentable over Vaid et al. U.S 6,502,131.

Vaid teaches the invention as claimed including directory enabled policy management tool for intelligent traffic management (see abstract).

As to claims 1, 13 and 25, Vaid teaches a policy management tool, a method and an article of manufacture, comprising:

dynamic network information to model a physical configuration of a network (column 28, lines 1-7); and

to detect a change in the physical configuration of the network (column 11, lines 32-41; column 27, lines 47-51); and

a policy manager coupled to the model to manage deployment of at least one policy to a set of devices in a network based on the dynamic network information (column 28, lines 8-16).

As to claims 2, 14 and 26, Vaid teaches the tool, the method and the method of claims 1, 13 and 25 wherein the policy manager comprises a policy to restrict certain types of traffic at multiple points within the network via a topology-based analysis of the network (column 4, lines 56-60).

As to claims 3, 15 and 27, Vaid teaches the tool of claim 1 wherein the policy manager comprises a policy to queue, buffer, or prioritize certain types of traffic at

multiple points within the network based on an analysis of traffic found on various portions of the network (column 5, lines 52-55).

As to claim 4, 17 and 28, Vaid teaches the tool, the method and the apparatus of claims 1, 13 and 25 wherein the policy manager comprises a policy to prioritize traffic, wherein the policy automatically selects the prioritization mechanism based on the protocol and/or media the traffic traverses (column 4, lines 53-56).

As to claims 8 and 20, Vaid teaches the tool and the method of claims 1 and 13 wherein the policy manager creates access control lists to control traffic through edge devices in the network based on a topology analysis of the network (column 26, line 34).

As to claims 9 and 21, Vaid teaches the tool and the method of claims 1 and 13 wherein the dynamic network information comprises a network topology, network statistical information, or network traffic information (column 28, lines 1-13).

As to claims 11 and 23, Vaid teaches the tool, the method of claims 1 and 13 wherein the policy manager comprises a policy to selectively configure a set of devices based on an analysis of the traffic processed by the set of devices (column 14, line 57 to column 15, line 23).

As to claim 16, Vaid teaches the method of claim 13 wherein the policy manager comprises a policy to queue traffic in devices in the network based on priority (column 5, lines 58-65)

5.   ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

6.   Claims 5, 6, 10, 18, 19, 22, 29 and 30 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Vaid U.S 6,502,131 in view of Craddock U.S. 6,351,771.

Vaid teaches the invention substantially as claimed including directory enabled

policy management tool for intelligent traffic management (see abstract).

As to claims 5, 18 and 29, Vaid teaches the tool, method and apparatus of claims

1, 13 and 25.

Vaid fails to teach a policy to monitor response time of content transfer between

one or more primary servers and a device in the network and replicate content of the

primary servers to at least one other server when the content time of a primary server

exceeds a predetermined metric.

However, Craddock teaches distributed service network system capable of

transparently converting data formats and selectively connecting to an appropriate

bridge in accordance with clients characteristics identified during preliminary

connections. Craddock teaches a policy to monitor response time of content transfer

between one or more primary servers and a device in the network and replicate

content of the primary servers to at least one other server when the content time of a

primary server exceeds a predetermined metric (column 6, lines 5-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vaid in view of Craddock to provide a policy to monitor response time of content transfer between one or more primary servers and a device in the network and replicate content of the primary servers to at least one other server when the content time of a primary server exceeds a predetermined metric. One would be motivated to do so to provide better performance achievement through distributing file read operations among file system replicas.

As to claims 6, 19 and 30, Vaid teaches the tool, the method and the apparatus in claims 1, 13 and 25 wherein the policy manager comprises a policy to monitor the performance of one of more servers (column 5, lines 1-20).

Vaid fails to teach replicate content of the primary servers to at least one other server when the performance metrics of a primary server exceeds a predetermined value.

However, Craddock teaches replicate content of the primary servers to at least one other server when the performance metrics of a primary server exceeds a predetermined value (column 6, lines 5-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vaid in view of Craddock to provide the policy manager comprises a policy to monitor the performance of one or more primary servers and replicate content of the primary servers to at least one other server when the performance metrics of a primary server exceeds a predetermined value. One would be motivated to do so to provide better performance achievement through distributing file read operations among file system replicas.

As to claims 10 and 22, Vaid teaches the tool and the method of claims 1 and 13.

Vaid fails to teach a policy to replicate content of a first device to a second device when the content response time of the first device exceeds a predetermined metric.

However, Craddock teaches a policy to replicate content of a first device to a second device when the content response time of the first device exceeds a predetermined metric (column 6, lines 5-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vaid in view of Craddock to create a policy to replicate content of a first device to a second device when the content response time of the first device exceeds a predetermined metric. One would be motivated to do so that better performance can be achieved through distributing file read operations among file system replicas.

7.   Claims 7, 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid et al. U.S. 6,502,131 in view of Chung et al. U.S. 6,266,781.

Vaid teaches the invention substantially as claimed including directory enabled policy management tool for intelligent traffic management (see abstract).

As to claim 7, Vaid teaches the tool of claim 1.

Vaid fails to teach the policy manager comprises a policy to monitor the health of one or more primary servers in the network, to replicate content of the primary servers to at least one other server when a primary server experiences a fault, and to configure the other server to emulate the primary server.

However, Chung teaches method and apparatus for providing failure detection and recovery with predetermined replication style for distributed applications in a network. Chung teaches a policy to monitor the health of one or more primary servers in the network, to replicate content of the primary servers to at least one other server when a primary server experiences a fault, and to configure the other server to emulate the primary server (column 3, lines 16-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vaid in view of Chung to create a policy to monitor the health of one or more primary servers in the network, to replicate content of the primary servers to at least one other server when a primary server experiences a fault, and to configure the other server to emulate the primary server. One would be motivated to do so to allow each application module running on that host computer is individually failure-protected in accordance with its registered replication style and degree of replication (see abstract).

As to claims 12 and 24, Vaid teaches the tool and the method of claims 1 and 13.

Vaid fails to teach a policy to replicate content of a first device to a second device when the first device experiences a fault and to configure the second device to emulate the first device.

However, Chung teaches a policy to replicate content of a first device to a second device when the first device experiences a fault and to configure the second device to emulate the first device (column 3, lines 16-29).

It would be obvious to one of ordinary skill in the art at the time of the invention to modify Vaid in view of Chung to create a policy to replicate content of a first device to a second device when the first device experiences a fault and to configure the second device to emulate the first device. One would be motivated to do so to allow each application module running on that host computer is individually failure-protected in accordance with its registered replication style and degree of replication (see abstract).

8.   *Response to Arguments*

Applicant's arguments with respect to claim 1-30 have been considered but are moot in view of the new ground(s) of rejection.

9.   *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4010.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall
Patent Examiner
Art Unit: 2157

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